

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 23.04.2018	Delivered on 05.06.2018
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CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

A.S. No. 84 of 2017
and CMP No.3569 of 2017

1. Union of India, rep. by Commissioner (HRI)
Govt. of Union Territory of Pondicherry,
Pondicherry.
 2. The Land Acquisition Officer-cum-
Deputy Collector (Revenue), Yanam.
 3. The President Trustees,
Sri Raja Rajeswaraswami Temple,
Yanam, rep. By its Partner
Sri Kapaganti Uma Shankar, Yanam.
 4. The President Trustee,
Sri Venkateswaraswami Temple,
Yanam, Rep. By its partner,
Sri Kapaganti Uma Shankar, Yanam.
- ... Appellants

[Cause title accepted vide order of Court
dated 15/09/2016 made in
CMP 12875 of 2016 in AS SR No.92840/2014]
Vs

1. Manepalli Krishnamurthy and others,
Archakas of Sri Raja Rajeswaraswami Temple,
Yanam.
2. Vadapalli Peda Satyanarayana Acharyulu,
Archakas of Sri Venkteswaraswami Temple,
Yanam.
3. Poddinty Narsinha Acharyalu,
Archaka of Sri Venkateswaraswami Temple,
Yanam.

... Respondents

Appeal filed under Section 54 of Land Acquisition Act,
against the order dated 11.07.2014 made in L.A.O.P. No.5 of 2009
on the file of the Subordinate Judge, Yanam.

For Appellants : Mrs.V.Usha,
Additional Government Pleader

For Respondents

: Mr.V.V.Sairam

J U D G E M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The above appeal arises out of proceedings under Section 30 of the Land Acquisition Act. An extent of about 2 Hectares and 68 cents belonging to "Sri Raja Rajeswara Swami Temple" and "Sri Venkateswara Swami Temple" at Yanam were acquired by the Government of Puducherry for allotment of free house sites to landless labourers. The award came to be passed in Award No.01 on 31.10.2007, fixing the compensation payable to the said land at Rs.93,87,136/-.

2. The Land Acquisition Officer, viz. Deputy Collector (Revenue), Yanam, made a reference, under Section 30 of the Land Acquisition Act, since the land owner/interested persons failed to produce original documents along with a Nil Encumbrance Certificate for claiming compensation and the respondents 1 to 3 made a rival claim. Upon the reference being made the same was numbered as LAOP No.5/2009 and the respondents/claimants filed their respective claim petitions.

3. In the reference proceedings, viz. LAOP No.5/2009, the Archakas of the temples in question namely the rival claimants were impleaded as claimants 3 to 5. The President of the Board of Trustees of the temples, viz. claimants 1 and 2 in their claim statement would contend that the lands belong to the temple and that there is no dispute regarding the title to the said property. According to him, the Archakas of the temple have unnecessarily made a claim, it is also claimed that the right of the temple was recognised by the Archakas even as early as on 15.02.1945. The property stood in the name of the temples in the Revenue as well as the other Public Records. The administration and management of the temples is vested with the President of "Sri Venkateswara Devasthanam Group of Temples" since both the temples are under the Management of the Board of Trustees of "Sri Venkateswara Swami Temple", it was claimed that the compensation may be awarded to the President of "Sri Venkateswara Devasthanam Group of Temples". It is also claimed that if the compensation is paid to the Archakas, who are claimants 3 to 5, there are every chances of them appropriating the compensation to themselves and in the event of their failure to perform their duties, the temple will be deprived of the income from the properties in question. The Archakas at best are only entitled to salaries, as such, they are not entitled to claim a share in the compensation of the temple. It is also claimed that reference under Section 18 of the Land Acquisition Act has also been sought for by the temples.

4. The respondents 3 to 5, who are the Archakas in the temples filed a separate claim statement, wherein, it is contended that the lands belonging to the Devasthanam were always in possession and enjoyment of the Archakas of the temple. They also relied upon the intention of the donors, who have donated the lands to the temple and claimed that the donation itself was to assure that the deity is given offerings everyday and someone attends the daily poojas in the temple. It is also claimed that performing the daily poojas was the duty of the priests and they only met the expenses of such poojas. It is also claimed that the priests are under obligation to look after the lands and to meet the expenses for the performance of daily rituals in the temple. They would further claim that their forefathers were working as priests and they have been continuing as such for a long time i.e., from the very establishment of the temples themselves. Therefore, the respondents 3 to 5 would contend that they are entitled to the entire compensation payable for the lands.

5. An additional claim statement filed by the respondents 1 and 2. In the said additional claim statement, it is contended that the Archakas/the respondents 3 to 5, who are working only as Archakas of the "Sri Raja Rajeswara Swami Temple" and since the Archakas of "Sri Venkateswara Swami Temple" are not making any claim, the compensation payable to the said temple should be paid without any further delay.

6. The learned Subordinate Judge, Yanam, who tried the above original petition, considering the pleadings of the parties, framed the following point for determination:

Who are the rightful claimants entitled to receive the compensation amount in respect of the above said acquired land ?

At the time of trial, on the side of the claimants CWs 1 to 3 were examined and Exhibits P1 to P13 were marked. On the side of the Referring Officer, Exhibits R1 and R2 were filed.

7. Considering the evidence on record, the learned Trial Judge came to the conclusion that the 3rd claimant and the Archakas of "Sri Raja Rajeswara Swami Temple" are entitled to receive 70% of annual interest amount, from the fixed deposit made in State Bank of India, Yanam, of the compensation amount of Rs.48,87,410/- with accrued interest as on the date of award in the name of "Sri Raja Rajeswara Swami Temple" Yanam. The remaining 30% of annual interest will be given to Devasthanam of "Sri Raja Rajeswara Swami Temple" and the 4th claimant Vadapalli Peda Satyanarayacharyulu and the 5th claimant Peddinty Narasimhacharyulu and other Archakas of "Sri Venkateswara Swami Temple" are entitled to receive 70% of the annual interest

amount from the fixed deposit made in the State Bank of India, Yanam, of the compensation amount of Rs.44,99,996/- with accrued interest as of the date of the award in the name of "Sri Venkateswara Swami Temples". The remaining 30% of annual interest were given to Devasthanam of "Sri Venkateswara Swami Temples".

8. Thus, it could be seen that the learned Subordinate Judge apportioned the interest payable on the compensation amount at 70:30 and directed 70% to be paid to the Archakas and 30% to the Devasthanam. Aggrieved by the said award, the Government of Puducherry, Land Acquisition Officer as well as the President Trustees of "Sri Raja Rajeswara Swami Temple" as well as the "Sri Venkateswara Swami Temple" have come forward with this appeal.

9. We have heard Ms.V.Usha, learned Additional Government Pleader (Puducherry) for the appellants and Mr.V.V.Sairam, learned counsel appearing for the respondents 1 to 3 viz. the claimants 3 to 5.

10. Mrs.V.Usha, learned Additional Government Pleader appearing for the Government of Puducherry as well as the temples in question would contend that the learned Subordinate Judge was not right in directing the payment of 70% of the interest to the Archakas. She would further contend that the Archakas are only entitled to salary and they are not entitled to the share in the compensation amount or the proceeds there from.

11. Per Contra, Mr.V.V.Sairam, the learned counsel appearing for the respondents would contend that the Archakas are not paid any salary and they are only dependant on the income from the land acquired. Now that the lands have been acquired they are left without any source of income. The same would also affect the performance of daily poojas in the temples in question, as they utilised the income from the land for performance of daily poojas in the temples. Mr.V.V.Sairam, would also draw our attention to the judgment of the Hon'ble Supreme Court in Ratan Kumar Tandon and Others v. State of Uttar Pradesh, reported in AIR 1996 SCC 2710, wherein the Hon'ble Supreme Court affirmed the apportionment of compensation between the lessee and the owner of the land at 50% each.

12. Considering the rival submissions. The Commissioner, HR & CE Department, Puducherry, the President of Sri Venkateshwara Swami Temple and the Archakas of the Temple were directed to be present in Court. Pursuant to the said direction, the parties appeared before the Division Bench on 22.01.2018. The Commissioner, HR & CE Department, Puducherry, who was present in court agreed to issue proceedings fixing the salary of the

Archakas of the temples in question. The Commissioner was directed to issue proceedings, before 12.02.2018 and the proceedings were also directed to be circulated to the respondents either directly or through their counsel. Thereafter the matter was adjourned to 19.03.2018. On 20.03.2018 the matter was listed again, the learned Additional Government Pleader had produced a copy of the proceedings dated 14.02.2018 issued by the Commissioner, Hindu Religious Institutions & Wakf Department, Puducherry fixing the salary of the Archakas of the temples in question.

13. The learned counsel appearing for the respondents sought time for filing his response and finally the counsel had filed his response to the proceedings fixing the salary. As per the proceedings dated 14.02.2018, fixing the salary payable to the Archakas, it is seen that the salaries payable to the Archakas has been fixed on the basis of the prevailing salary in famous temples in Puducherry and Karaikal. We find that the salaries have been worked out on the basis of the salaries that is being paid to the Archakas of Manakula Vinayaka temple in Puducherry and Sri Bhadrakali Amman Devasthanam, Ambakarathur, Karaikal, both of which are famous temples in Puducherry region. Since the Archakas do not work on a daily basis, but work on a rotation basis, the number of working days per year have been taken and their salaries have been fixed. The said proceedings also make a provision for Pooja expenses.

14. In the objections filed, the respondents Archakas would contend that there is no question of them being appointed as Archakas by the Commissioner of the Hindu Religious Institutions & Wakf, Puducherry, as they have been working as such for generations together. They claim a hereditary right, it is also claimed that the salary fixed is arbitrary and wholly unsustainable. It is also claimed that the salary paid to them should be fixed in the back drop of the compensation amount deposited in the Bank.

15. We are unable to accept the claim made on behalf of the Archakas, of course, they have been working as Archakas for generations and rendering service to the temple. All that they would be entitled to are the perks that are attached to the office of Archakas. They cannot claim a share in the property of the temple. The further claim of the Archakas that the salaries payable to them should have a reference to the amount that is fixed as compensation for the land acquired from the temple. We do not think, such a claim to be countenanced. Even the claim of the Archakas is that they were cultivating the land in question and getting income from the property. The acquired land measured about 2 hectares and 68 cents equivalent to about 6½ acres. The income they would have derived by cultivating those lands, subject to waggeries and nature, will not be to the tune of

Rs.2,40,000/- per annum, which is the salary fixed now. Therefore, we are unable to accept the contentions of the learned counsel for the respondents in the form of objections to the proceedings fixing the salary. Hence, we accept the fixation of salary made by the Commissioner, Hindu Religious Institutions & Wakf, Puducherry.

16. The other question to be considered is what is the right of the Archakas over the property in question. The fact that the land belonged to the temple is admitted. The only claim of the Archakas is that they are entitled to the share in the income from the land, since they are not paid salaries and they were solely dependant on the income from the land for their sustenance as well as for performance of the poojas in the temple. Now that the Government of Puducherry had agreed to pay salaries to the Archakas, apart from providing a sum of Rs.1,98,000/- for pooja expenses and Rs.36,000/- for provision of maids in the temple. We do not think that the Archaka's claim that they are entitled to a portion of the compensation or the interest that accrues to the compensation could be countenanced.

17. In the light of the above Appeal is allowed. The award of the learned Subordinate Judge, Yanam, directing payment of 70% of the interest that accrues to the fixed deposits made in the name of the temples to the Archakas is set aside. The reference made under Section 30 is answered to the effect that the entire compensation amount will be paid over to the temples in question. However, in the circumstances of the case, there will be no order as to costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

jv
To

The Subordinate Judge,
Pondicherry.

+1 CC to Mr.V.V. Sairam, Advocate sr 34652
+1 CC to The Govt. Pleader sr 34689.

A.S. No. 84 of 2017
and CMP No.3569 of 2017

SP(25/06/2018)